

**DISTRICT OF COLUMBIA
DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS**

NOTICE OF FINAL RULEMAKING

The Interim Commissioner of the Department of Banking and Financial Institutions, pursuant to the authority set forth in section 25 of the Money Transmitters Act of 2000, effective July 18, 2000 (D.C. Law 13-140; D.C. Official Code §26-1001 et seq. (2001)), hereby gives notice that final rulemaking action was taken to adopt the following rules. These rules amend Title 26A, “Banking and Financial Institutions” of the District of Columbia Municipal Regulations to add a new chapter, “Chapter 22 Money Transmitters”. The proposed rules provide for the regulation of persons engaged in the business of transmitting money in the District of Columbia. No changes have been made to the text of the proposed rules as published with the Notice of Proposed Rulemaking in the D.C. Register on October 3, 2003, at 50 DCR 8219. Final action to adopt these rules was taken on November 25, 2003. These final rules will become effective upon publication of this notice in the D.C. Register.

CHAPTER 22

MONEY TRANSMITTERS

2200 SCOPE

2200.1 Unless specified otherwise, these rules shall govern persons engaged in the transmission of money in the District of Columbia whether it is within the United States or to locations abroad, by any means, including, but not limited to, payment instrument, wire, facsimile, or electronic transfer.

2201 REQUIREMENT FOR BUSINESS LOCATION IN THE DISTRICT

2201.1 No licensee shall engage in the transmission of money unless the licensee conducts such business at a location within the District of Columbia approved by the Department or through an authorized delegate approved by the Department and operating at a location within the District of Columbia approved by the Department.

2202 WAIVER OF PERMISSIBLE INVESTMENTS AND STATUTORY TRUST

2202.1 An applicant that seeks a waiver of the permissible investments and statutory trust requirement of section 6 of the Act shall file a request for a waiver of the permissible investments and statutory trust requirement with the Department.

2202.2 A request for a waiver of the requirements of section 6 of the Act shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking

the waiver. The request also shall include a calculation of the applicant's permissible investments and their aggregate market value, calculated in accordance with generally accepted accounting principles, and the amount of all outstanding payment instruments issued or sold by the applicant in the United States.

- 2202.3 Upon receipt of a request for a waiver pursuant to § 2202.2, the Department shall compare the applicant's total dollar volume of outstanding payment instruments to the applicant's posted bond or other security device as set forth in section 6 of the Act and shall determine if the dollar volume of the applicant's outstanding payment instruments does not exceed the bond or other security devices posted by the applicant pursuant to section 8 of the Act. In addition, the Department shall determine if just and reasonable cause exists for a waiver and if a waiver pursuant to § 2202.2 would be consistent with the purposes of the Act.
- 2202.4 Within sixty (60) days of receipt of a request for a waiver pursuant to § 2202.2 and upon completion of the review pursuant to § 2202.3, the Department shall determine whether to waive the permissible investments and statutory trust requirement of section 6 of the Act and whether to impose conditions for the waiver.
- 2202.5 A person that receives a waiver pursuant to § 2202.4 that contains conditions for the waiver shall comply with all of the conditions. In the event that any of the conditions are not satisfied, the waiver shall be deemed void.

2203 WAIVER OF LICENSE APPLICATION REQUIREMENTS

- 2203.1 An applicant that seeks a waiver of any of the license application requirements of section 7(e) of the Act or who seeks to submit substituted information on its license application in lieu of the information required by section 7(e) of the Act shall request a waiver of the license application requirement or obtain authorization to submit substituted information from the Department.
- 2203.2 A request for a waiver pursuant to § 2203.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking the waiver.
- 2203.3 Upon receipt of a request for a waiver pursuant to § 2203.2, the Department shall review the request to determine if just and reasonable cause exists for the waiver and if the waiver pursuant to § 2203.2 would be consistent with the purposes of the Act.
- 2203.4 Within sixty (60) days of receipt of a request made pursuant to § 2203.2 and upon completion of the review pursuant to § 2203.3, the Department shall determine whether to waive any of the license requirements of section 7(e) of the Act or the Department shall determine whether to permit substituted information on the license application in lieu of the information required in section 7(e) of the Act.

2204 SUBSTITUTION OF OTHER SECURITY DEVICE

- 2204.1 An applicant that seeks to substitute a security device other than a surety bond or irrevocable letter of credit pursuant to section 8(a) of the Act shall file a request for approval for the substituted security device with the Department.
- 2204.2 The request for a substitute security device pursuant to § 2204.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking the substitution and why such other security device should be acceptable under the Act.
- 2204.3 Upon receipt of a request for a substitute security device pursuant to § 2204.2, the Department shall review the request to determine if the substituted security device is in a form satisfactory to the Department and if the substituted security device runs to the District of Columbia for the benefit of all claimants against the applicant to secure the faithful performance of the applicant with respect to the receipt, handling, transmission, or payment of money in connection with the sale and issuance of payment instruments or transmission of money. In addition, the Department shall determine if just and reasonable cause exists for a substitution and if a substitution pursuant to § 2204.2 would be consistent with the purposes of the Act.
- 2204.4 Within sixty (60) days of receipt of a request pursuant to § 2204.2 and upon completion of the review pursuant to § 2204.3, the Department shall determine whether to approve the substitute security device in lieu of a surety bond or irrevocable letter of credit.
- 2205 DEPOSITING OF CASH, INTEREST-BEARING STOCKS AND BONDS, NOTES, DEBENTURES OR OTHER OBLIGATIONS**
- 2205.1 An applicant that seeks to deposit cash, interest-bearing stocks and bonds, notes, debentures or other obligations, in lieu of a security device, pursuant to section 8(b) of the Act shall file a request for approval with the Department.
- 2205.2 A request filed pursuant to § 2205.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking substituted deposit(s) and why a substituted deposit should be acceptable to the Department. The request also shall include a calculation of the applicant's permissible investments and their aggregate market value, calculated in accordance with generally accepted accounting principles and the amount of all outstanding payment instruments issued or sold by the applicant in the United States.
- 2205.3 Upon receipt of a request filed pursuant to § 2205.2, the Department shall review the request to determine if the cash, interest-bearing stocks and bonds, notes debentures or other obligations the applicant proposes to use as a security device in lieu of a bond are issued or guaranteed by the United States or the District of Columbia or an agency or instrumentality of the United States or the District of Columbia. In addition, the Department shall determine if just and reasonable cause exists for a substitute deposit and if a substitute deposit pursuant to

§ 2205.2 would be consistent with the purposes of the Act.

- 2205.4 Within sixty (60) days of receipt of a request pursuant to § 2205.2 and upon completion of the review pursuant to § 2205.3, the Department shall determine whether to approve the substitute deposit.

2206 ELIMINATION OR REDUCTION OF SECURITY DEVICE

- 2206.1 An applicant that has ceased money transmission operations in the District of Columbia and proposes a waiver or a reduction of the security device requirements of section 8(c) of the Act shall request a waiver of the security device requirements or a reduction of the security device of the permissible investments and statutory trust requirement from the Department.
- 2206.2 A request for a waiver or reduction of the security device requirements pursuant to § 2206.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking the waiver or reduction. The request also shall include a calculation of the applicant's outstanding payment instruments in the District of Columbia.
- 2206.3 Upon receipt of a request for a waiver pursuant to § 2206.2, the Department shall compare the reduction in the applicant's total dollar volume of outstanding payment instruments in the District of Columbia to the applicant's posted bond or other security device. In addition, the Department shall determine if just and reasonable cause exists for a waiver or reduction and if a waiver or reduction pursuant to § 2206.2 would be consistent with the purposes of the Act.
- 2206.4 Within sixty (60) days of receipt of a request pursuant to § 2206.2 and upon completion of the review pursuant to § 2206.3, the Department shall determine whether the applicant's security device shall be reduced or eliminated prior to the 5-year holding period set forth in section 8(c) of the Act to the extent that the amount of the applicant's outstanding payment instruments in the District of Columbia are reduced.

2207 SUBSTITUTION OF SECURITY DEVICE

- 2207.1 An applicant that has ceased money transmission operations in the District of Columbia and seeks to substitute a letter of credit or other security device in place of the security device that was in place at the time the applicant ceased money transmission operations in the District of Columbia, pursuant to the requirements of section 8(c) of the Act, shall request approval from the Department.
- 2207.2 The request for approval to substitute another security device pursuant to § 2207.1 shall be made in writing and shall include an explanation of the reason(s) the applicant is seeking a substitution. The request also shall include a calculation of the applicant's outstanding payment instruments in the District of Columbia.
- 2207.3 Upon receipt of a request for approval filed pursuant to § 2207.2, the Department shall compare the applicant's total dollar volume of outstanding payment

instruments in the District of Columbia to both the applicant's posted bond or other security device and the applicant's proposed substituted security device. In addition, the Department shall determine if just and reasonable cause exists for a substitution and if a substitution pursuant to § 2207.2 would be consistent with the purposes of the Act.

- 2207.4 Within sixty (60) days of receipt of a request pursuant to § 2207.2 and upon completion of the review pursuant to § 2207.3, the Department shall determine whether to approve the substitution of another security device of the applicant to take the place of the applicant's security device in place at the time the applicant ceases money transmission operations in the District of Columbia.

2208 INVESTIGATIONS

- 2208.1 The Department may conduct an on-site investigation of an applicant, and its authorized delegate(s), for a license pursuant to section 10 of the Act.
- 2208.2 The Department shall charge a fee of sixty dollars (\$60) an hour per person including applicable travel time, plus all reasonably incurred costs, for conducting an on-site investigation of an applicant, and its authorized delegate(s), for a license. Reasonably incurred costs shall include, but are not limited to, airfare, lodging, food, parking, car usage out of state and mileage.

2209 ANNUAL RENEWAL REPORT

- 2209.1 The annual renewal report required under section 11 of the Act shall be in the form set forth in the attached Appendix.
- 2209.2 Every licensee shall complete the annual renewal report required in § 2209.1 and submit it to the Department at 1400 L Street, NW, Suite 400, Washington, DC 20005. The annual renewal report shall be submitted by December 31 of each year.
- 2209.3 Any licensee that fails to submit the annual renewal report as required by § 2209.2 shall be fined fifty dollars (\$50) for each day after the due date set forth in § 2209.2 that the report is not submitted to the Department. This fine shall be made payable to the D.C. Treasurer and the licensee shall submit the fee, along with the annual renewal report, to the Department at the address set forth in § 2209.2.

2210 CHANGES IN CONTROL OF A LICENSEE

- 2210.1 In order to request approval for a change in control of a licensee, the applicant shall provide information to the Department as required under §§ 2210.2 and 2210.3.
- 2210.2 The application for a change in control shall be made on a form as prescribed by the Commissioner.

- 2210.3 An application for a change in control filed pursuant to § 2210.2 shall be accompanied with financial and biographical information for the applicant, each new officer or employee of the applicant or licensee and any other person required by the Department.
- 2210.4 The application fee for a change in control of a licensee shall be three hundred and fifty dollars (\$350) and shall be payable by check, made payable to the D.C. Treasurer. The application fee shall be submitted along with the application for a change in control as required in § 2210.2, to the Department at 1400 L Street, NW, Suite 400, Washington, DC 20005.
- 2210.5 A licensee that fails to submit the application for a change in control as required by § 2210.2 shall be fined one hundred dollars (\$100) for each day after the date of the change in control that the application is not filed with the Department.
- 2210.6 Any fine assessed pursuant to § 2210.5, shall be payable by check, made payable to the D.C. Treasurer, and shall be submitted along with the application for a change in control, to the Department at the address set forth in § 2210.4.

2211 EXAMINATIONS

- 2211.1 The Department may conduct an on-site examination of a licensee and an authorized delegate of the licensee pursuant to section 14 of the Act.
- 2211.2 Each licensee or its authorized delegate(s) shall be subject to an examination at any time forty-five (45) days after the renewal of the licensee's license. The forty-five day notice required by section 14 of the Act shall be issued in conjunction with the renewal of the licensee's license.
- 2211.3 The licensee and its authorized delegate(s) shall each be assessed an examination fee of two hundred and fifty dollars (\$250) per examination, plus sixty dollars (\$60) per hour for each hour or fraction of each hour in excess of four (4) hours if an examination exceeds four (4) hours.
- 2211.4 In addition to the fee required by § 2211.3, the Department shall assess a licensee for all reasonably incurred costs, for conducting an on-site examination of a licensee or authorized delegate. Reasonably incurred costs shall include, but are not limited to, airfare, lodging, food, parking, car usage out of state and mileage.

2212 AUTHORIZED DELEGATE CONDUCT

- 2212.1 The maximum remittance time for an authorized delegate to remit all monies owing to a licensee within the time required in accordance with the terms of the contract between the licensee and the authorized delegate, as set forth in section 18(c) of the Act, shall be thirty (30) calendar days.

2299

DEFINITIONS

2299.1 For the purpose of this chapter, the following terms have the meaning ascribed:

Act – The Money Transmitters Act of 2000, effective July 18, 2000 (D.C. Law 13-140; D.C. Official Code § 26-1001 et seq. (2001)).

Applicant - A person filing an application for a license, a renewal license, or a change in control under the Act.

Authorized Delegate - An entity designated by a licensee under the provisions of the Money Transmitters Act of 2000 to sell or issue payment instruments or engage in the business of transmitting money on behalf of the licensee.

Department - The Department of Banking and Financial Institutions.

District - The District of Columbia.

Licensee - A person licensed pursuant to the Money Transmitters Act of 2000.

Person - An individual, corporation, partnership, association, limited liability company, joint venture, government, or any other legal or commercial entity or agent.

Shareholder with a controlling interest – A person who owns, directly or indirectly, more than ten percent of any class of stock of the applicant.

APPENDIX

ANNUAL RENEWAL REPORT FORM

RENEWAL APPLICATION FOR A MONEY TRANSMITTER LICENSE

Pursuant to the Money Transmitters Act of 2000
(D.C. Law 13-140; D.C. Official Code § 26-1001 et seq. (2001)) (“**Act**”)

Answer All Questions. If not applicable, indicate with an N/A.

PART ONE – TO BE COMPLETED BY ALL APPLICANTS

1. Applicant’s name: _____
2. Fictitious or trade name: _____
3. Applicant’s Federal Employer Identification Number: _____
4. Applicant’s principal business office:
Street Address: _____
City and State: _____
Telephone number: _____ Fax Number: _____
E-Mail: _____
5. Money Transmitter License number, if applicable _____
6. Name and address of principal contact person: *(license will be sent to this person)*
Name: _____
Street Address: _____
City and State: _____
Telephone number: _____ Fax Number: _____
E-Mail: _____
7. Address at which the applicant keeps its books and records (if different from answer to Question 4).
Street Address: _____
City and State: _____

8. Applicant is a(n): (Check appropriate classification)

- | | |
|--------------------------------------|--|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Association | <input type="checkbox"/> Joint Stock Association |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Other (explain): _____ |

9. Type of money transmission activity to be conducted (mark all that apply):

- | | |
|---------------------------------------|---|
| <input type="checkbox"/> Checks | <input type="checkbox"/> Travelers Checks |
| <input type="checkbox"/> Drafts | <input type="checkbox"/> Wire Transfers |
| <input type="checkbox"/> Money Orders | <input type="checkbox"/> Other (explain): _____ |
| <input type="checkbox"/> Stored Value | |

10. Money transmission sales are conducted through (marked all that apply):

- | |
|--|
| <input type="checkbox"/> Company Owned Outlets |
| <input type="checkbox"/> Independent Authorized Delegates |
| <input type="checkbox"/> Subsidiaries or Affiliate; and/or |
| <input type="checkbox"/> Other (explain): _____ |

11. Submit the following:

- (a) Complete name and address of each authorized delegate and each of the applicant's locations in the District of Columbia from which it conducts money transmission sales. *(use separate 8½ x 11 sheet of paper)*

State the total number of the applicant's locations in the District of Columbia:

PART TWO

INSTRUCTIONS: Please check either "yes" or "no" in response to the following questions regarding changes since the last application or renewal. **IF THERE HAVE BEEN ANY CHANGES, PLEASE PROVIDE THE REQUESTED INFORMATION (Note that a response to the following questions does not constitute compliance with any separate statutory notice or reporting requirement):**

1. Has there been any change in principal officers, directors, partners, or individuals with a 25% or more ownership interest in the applicant since the last application or renewal?

☐ Yes ☐ No

If yes, please explain change(s) on a separate sheet, and include the name, title, business address and percentage ownership of each person who has acquired an ownership interest or become an officer or director of the applicant.

2. Has the applicant had its license suspended, revoked or renewal refused in any other state since the last application or renewal?

☐ Yes ☐ No

If yes, please explain on a separate sheet.

3. Has the applicant been subject to any enforcement action by a licensing authority in any other state since the last application or renewal?

☐ Yes ☐ No

If yes, please explain on a separate sheet.

4. Has there been any material litigation involving the applicant since the last application or renewal? Material litigation means litigation that, according to generally accepted accounting principles, is deemed significant to any licensee's financial health and would be required to be referenced in its annual audited financial statements, report to shareholders or similar documents.

☐ Yes ☐ No

If yes, please explain on a separate sheet.

5. Has there been any felony indictment or criminal conviction of any principal officer or partner of the applicant, or any individual with a 25% or more ownership interest in the applicant since the last application or renewal?

☐ Yes ☐ No

If yes, please explain on a separate sheet.

6. Has there been any substantive change to the form of instruments issued by the applicant since the last application or renewal, if not previously provided?

☐ Yes ☐ No

If yes, please provide a specimen if not previously provided.

7. Has there been any change in the applicant's principal clearing banks, clearing bank address or account number since the last application or renewal?

☐ Yes ☐ No

If yes, please list the name, address, contact name and account number on a separate sheet.

8. Has there been any material change to the applicant's authorized delegate contract since the last application or renewal?

☐ Yes ☐ No

If yes, please provide a copy.

9. Has there been any change to the applicant's internal auditor(s) since the last application or renewal?

☐ Yes ☐ No

If yes, please provide the new contact name and phone number on a separate sheet.

10. Has the applicant, or any principal officer, director, partner, or individual with a 25% or more ownership interest in the applicant, filed a petition in bankruptcy or reorganization since the last application or renewal?

☐ Yes ☐ No

If yes, please describe the proceedings on a separate sheet, and provide a copy of the petition and a copy of the discharge if applicable.

PART THREE – TO BE COMPLETED BY NON-CORPORATE APPLICANTS (If you are a Corporate Applicant, please go to Part Four)

1. For each of the applicant's principals and any other person(s) who will manage or control the applicant's money transmission business, provide:

Name: _____

Title: _____

Business Address: _____

Residence Address: _____

Name: _____

Title: _____

Business Address: _____

Residence Address: _____

Name: _____

Title: _____

Business Address: _____

Residence Address: _____

Name: _____

Title: _____

Business Address: _____

Residence Address: _____

2. Submit a copy of applicant's registration or qualification to do business in the District of Columbia.
3. For each of applicant's principals, submit a ***Personal Financial Statement*** (*attached*).
4. Submit a copy of applicant's audited financial statements (including balance sheet, statement of income or loss, and statement of changes in financial position) for the current year and, if available, for the prior two (2) years.

PART FOUR – TO BE COMPLETED BY CORPORATE APPLICANTS

1. Submit the following:
 - A. The most recent audited financial statements of the applicant, including the balance sheet, statement of income, statement of stockholder's equity and statement of cash flow for the prior two (2) years, prepared by an independent certified public accountant, if not previously provided.

If the applicant is a wholly-owned subsidiary of another corporation, the applicant may submit either the parent's consolidated audited financial statements for the current year and prior two (2) years, or the parent's Form 10K reports filed with the United States Securities and Exchange Commission for the prior three (3) years in lieu of the financial statements.
 - B. The most recent unaudited interim financial statements prepared for the applicant, dated no more than 120 days from the date of this application, if not previously provided.
 - C. Submit the following:
 - 1) The total dollar amount of the applicant's outstanding instruments and money transmissions in the District of Columbia.
 - (a) As of the date of the most recent audited financial statement, and
 - (b) As of the date of the interim financial statement filed in accordance with prior request 1(B).

- 2) The total dollar amount of the applicant's outstanding instruments and money transmissions in the United States.
 - (a) As of the date of the most recent audited financial statement, and
 - (b) As of the date of the unaudited interim financial statement filed in accordance with prior request 1(B).
2. Submit the number and dollar amount of payment instruments sold/issued and money transmissions conducted by the applicant from _____ through the close of business _____ (12 month period):
3. Submit a list of the applicant's permissible investments, and the book or market value of the investments.
 - (a) As of the date of the most recent audited financial statement, and
 - (b) As of the date of the unaudited interim financial statement filed in accordance with prior request 1(B).
4. If audited financial statements are not provided, and if permissible investments are required, the following is required:

A certification by an independent certified public accountant that the applicant's permissible investments, at all times possess a book or market value calculated in accordance with generally accepted accounting principles, of not less than the aggregate dollar amount of all outstanding payment instruments issued or sold by the licensee in the United States.
5. Submit proof of the surety bond required and/or a list of deposits and other obligations maintained in lieu of all or part of the corporate surety bond, as authorized by the **Act**. For each deposit, please designate the amount of each deposit, the financial institution in the District of Columbia that is the depository, and the account number.

I certify that the foregoing responses are true, accurate and complete to the best of my knowledge and belief.

6. For each executive officer, shareholder having a controlling interest, officer, manager or other person that will manage or direct the applicant's money transmission activities, provide the following:

Name: _____

Title: _____

Business Address: _____

Residence Address: _____

Name: _____

Title: _____

Business Address: _____

Residence Address: _____

Name: _____

Title: _____

Business Address: _____

Residence Address: _____

Name: _____

Title: _____

Business Address: _____

Residence Address: _____

Name: _____

Title: _____

Business Address: _____

Residence Address: _____

7. Copies of all filings made by the applicant with the United States Securities and Exchange Commission, or a similar regulator outside the United States, within the year preceding the date of this application.

PART FIVE– TO BE SUBMITTED BY ALL APPLICANTS

Applicants shall complete and attach to this application the following forms, as prescribed by the Commissioner:

- (1) Money Transmitter License Bond Form;
- (2) Clean Hands Before Receiving a License or Permit Act of 1996 Certification Form;
- (3) Personal Financial Statement;
- (4) Certified Resident Agent Appointment Form; and
- (5) If applicable, Non-U.S. Citizen Supplemental Information Form

PART SIX– TO BE COMPLETED BY ALL APPLICANTS

CERTIFICATION

Having been duly sworn, and under the penalties of perjury, I hereby certify that the representations in this RENEWAL APPLICATION FOR MONEY TRANSMITTER LICENSE are true and correct to the best of my knowledge and belief. I understand that omissions or inaccuracies may result in denial of the APPLICATION.

(Name of Licensee)

By: _____

Title: _____

State of _____

County of _____

On this the ____ day of _____, 20____, before me, a Notary Public, appeared _____, known to me to be the person(s) named in, and who executed the foregoing application and made oath that the statements and representations set forth are true to the best of his/her/their knowledge and belief.

Notary Public

My Commission Expires: _____

Submit this renewal application along with the required documentation and fee, and direct inquiries concerning licensing, preparation or filing of this renewal application to:

**Department of Banking and Financial Institutions
Safety and Soundness Division
1400 L Street, NW, Suite 400
Washington, DC 20005
Phone: (202) 727-1563
Fax: (202) 727-1290**